

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 4:05-cr-00052-GHD-DAS-1

LEVON WATTS KIRK

DEFENDANT

ORDER DENYING
DEFENDANT'S MOTION FOR PRODUCTION OF DOCUMENTS AS AN INDIGENT
DEFENDANT

In the case *sub judice*, *pro se* Defendant Levon Watts Kirk filed a 28 U.S.C. § 2255 motion to challenge his guilty-plea convictions and 15-year sentence for being a felon in possession of a firearm and for delivering a firearm to a juvenile. The Court denied the motion. Subsequently, Kirk sought a certificate of appealability to appeal the Court's dismissal, as well as leave to proceed *in forma pauperis* on appeal, appointment of counsel, and oral argument; the Fifth Circuit Court of Appeals denied these requests. Now before the Court is Kirk's motion for production of documents as an indigent defendant [89], wherein he states that he is in the process of filing a motion pursuant to 28 U.S.C. § 2241 and Rule 60(b) of the Federal Rules of Civil Procedure and seeks a free transcript of the grand jury proceeding and copy of the indictment in the case *sub judice* pursuant to 28 U.S.C. § 2250. Kirk contends that the requested documents would help demonstrate the merits of his claims.

However, "[a]n indigent defendant has no constitutional right to acquire a free copy of his transcript or other court records for use in a collateral proceeding." *United States v. Ramos-Barrera*, 466 F. App'x 334, 334–335 (5th Cir. 2012) (per curiam) (citing *United States v. MacCollom*, 426 U.S. 317, 325–26, 96 S. Ct. 2086, 48 L. Ed. 2d 666 (1976)). Kirk does not have a pending habeas motion before the Court. Accordingly, he is not entitled to receive the

documents in question. *See id.* (citing 28 U.S.C. § 2250; *Walker v. United States*, 424 F.2d 278, 278–79 (5th Cir. 1970)); *United States v. Agbomire*, 239 F. App’x 929, 929–30 (5th Cir. 2007) (per curiam).

ACCORDINGLY, Defendant Levon Watts Kirk’s motion for production of documents as an indigent defendant [89] is DENIED.

SO ORDERED, this, the 16 day of March, 2015.

A handwritten signature in black ink, appearing to read "Sh. H. Davidson", written over a horizontal line.

SENIOR U.S. DISTRICT JUDGE